

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michael Osiris Boyd,

Civ. No. 20-1505 (PAM/KMM)

Plaintiff,

v.

ORDER

Pat Carr, Brian Frank, Dave Isais,
Christopher Bloom, Thomas Zerwas,
Mark Fritel, and Bryan Bjergo,

Defendants.

This matter comes before the Court on the Report and Recommendation (R&R) of United States Magistrate Judge Katherine M. Menendez dated September 1, 2020. Boyd filed suit on July 1, 2020 and sought to proceed in forma pauperis. (Docket Nos. 1, 2.) The Court ordered Boyd to pay an initial partial filing fee of at least \$62.23 by July 26, 2020, failing which the Court would recommend dismissal for failure to prosecute. (Docket No. 3.) As of September 1, 2020, Boyd had yet to pay the partial filing fee, so the R&R recommended that the Complaint be dismissed without prejudice for failure to prosecute.

The Court need only evaluate de novo those portions of an R&R to which specific objections are made. D. Minn. L.R. 72.2(b)(3). Having failed to object, the parties have waived any argument that the R&R's conclusions are incorrect. Boyd has not substantively responded to the R&R, but instead has submitted a change of address. (Docket No. 6.) While Boyd has failed to respond to the Court's order that he pay the initial partial filing fee in this case, he has filed a motion in an unrelated criminal case seeking compassionate

release. (Crim. No. 16-320 (JRT/BRT), Docket No. 147.) Boyd has yet to pay the partial initial filing fee as of the date of this Order. The R&R correctly concludes that Boyd's Complaint should be dismissed without prejudice for failure to prosecute.

Accordingly, **IT IS HEREBY ORDERED that:**

1. The R&R (Docket No. 5) is **ADOPTED**;
2. The Application to Proceed without Prepaying Fees or Costs (Docket No. 2) is **DENIED as moot**; and
3. Boyd's Complaint (Docket No. 1) is **DISMISSED without prejudice**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 23, 2020

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge